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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,371	07/29/2003	Gwendolyn Frances Wilson	A8614	5152

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EXAMINER

BROWN, PETER R

ART UNIT PAPER NUMBER

3636

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/628,371

Applicant(s)

WILSON ET AL.

Examiner

Peter R. Brown

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

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Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1 and 11, the description of the flaps as having "first side, a second side, a front side, a back side and a top edge and bottom edge" is confusing and unclear, as the difference between the first and second sides, and the front and back sides is not evident. If it is the intent to recite the side edges, then the terms "right and left edges", or the like, should be utilized.

Claims 2 and 12, in reciting a conduit, appear redundant, as claims 1 and 11 already recite openings "for providing a conduit". Different terminology should be utilized if the conduit in claims 2 and 12 is distinct from that in claims 1 and 11.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-14, and 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over DiTommaso in view of Yoshida et al.

DiTommaso (figure 4) discloses a chair device for bathing in which a seat is slidably attached to a base member, a back is adjustably attached to the base member (fig. 9), and adjustable legs are provided. While the chair device of

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DiTommaso does not have flaps and a conduit extending therethrough, the patent to Yoshida et al (fig. 11) teaches the provision of flaps 47 that are pivotally attached to the sides of a backrest of a bathing device, and which include conduits and openings therein to allow water to spray over an occupant. In view of this suggestion, to have modified the chair device of DiTommaso by providing flaps on the sides of the backrest and forming conduits therein to allow spraying onto an occupant, would have been well within the level of skill in the art, as such a modification would allow an occupant to bathe without leaving the chair.

Note that the use of holes and a fastening means for adjusting the backrest would have been obvious, as such is conventional and well known in the art.

Yoshida teaches the use of a valve 71.

Claims 5 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over DiTommaso in view of Yoshida et al, as applied to the claims above, and further in view of Segar.

To have provided the chair of DiTommaso and Yoshida et al with a shower head, for better water coverage, would have been an obvious modification to one with ordinary skill in the art, as such is shown to be well known in the art by Segar (fig. 1).

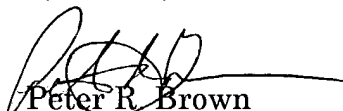
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Gellmann, Sellars, Cheng, Colman, and Gallo show various features of the invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter R. Brown whose telephone number is 703-308-2103. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Peter R. Brown  
Primary Examiner  
Art Unit 3636

prb